

# House File 397 - Introduced

HOUSE FILE 397

BY ISENHART

## A BILL FOR

1 An Act requiring the inspection of a private well serving a  
2 building upon the transfer of ownership of the building.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 455B.172, Code 2021, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 12. *a.* If a building where a person  
4 resides, congregates, or is employed is served by a private  
5 well, the well serving the building shall be inspected for the  
6 presence of substances and organisms set forth under paragraph  
7 "b" prior to any transfer of ownership of the building unless  
8 the well is scheduled to be closed. This subsection applies  
9 to all types of ownership transfer including at the time a  
10 seller-financed real estate contract is signed. The county  
11 recorder shall not record a deed or any other property transfer  
12 or conveyance document until either a certified inspector's  
13 report is provided that documents the condition of the private  
14 well and whether any modifications are required to conform  
15 to standards adopted by the department or, in the event that  
16 weather or other temporary physical conditions prevent the  
17 certified inspection from being conducted, the buyer has  
18 executed and submitted a binding acknowledgment with the  
19 county board of health to conduct a certified inspection of  
20 the private well at the earliest practicable time and to be  
21 responsible for any required modifications to the private well  
22 as identified by the certified inspection. For purposes of  
23 this subsection, "*transfer*" means the transfer or conveyance  
24 by sale, exchange, real estate contract, or any other method  
25 by which real estate and improvements are purchased, if the  
26 property includes at least one but not more than four dwelling  
27 units. However, "*transfer*" does not include any action set  
28 forth in subsection 11, paragraph "a", subparagraphs (1)  
29 through (12).

30 *b.* (1) An inspection conducted pursuant to this subsection  
31 shall examine the level of nitrate, nitrite, arsenic, and  
32 coliform bacteria.

33 (2) If the building is a home, an inspection conducted  
34 pursuant to this subsection shall examine the level of lead and  
35 copper.

1     (3) A county board of health may require that an inspection  
2 conducted pursuant to this subsection in the county include  
3 an examination of the level of other contaminants based on  
4 local groundwater conditions upon the recommendation of the  
5 state hygienic laboratory, the Iowa geological survey, or the  
6 department.

7     *c.* Inspections shall be conducted by an inspector certified  
8 by the department.

9     *d.* Pursuant to chapter 17A, the department shall adopt  
10 rules establishing certification requirements for inspectors  
11 including training, testing, and fees; uniform statewide  
12 inspection criteria; and an inspection form. The inspector  
13 certification training shall include use of the criteria and  
14 form. The department shall maintain a list of certified  
15 inspectors. The department shall consult with the state board  
16 of health when developing requirements and criteria.

17     *e.* County personnel are eligible to become certified  
18 inspectors. A county may set an inspection fee for  
19 inspections conducted by certified county personnel. A county  
20 shall allow any department-certified inspector to provide  
21 inspection services under this subsection within the county's  
22 jurisdiction.

23     *f.* A county may use grant moneys received pursuant  
24 to section 135.11, subsection 24, to alleviate costs of  
25 administering this subsection. A county that uses grant moneys  
26 to administer this subsection shall report inspection results  
27 to the state board of health.

28     *g.* Following an inspection, the inspection form and any  
29 attachments shall be provided to the county board of health and  
30 the department.

31     *h.* An inspection is valid for a period of twenty-four months  
32 for any ownership transfers during that period.

33     Sec. 2. Section 558.69, subsection 1, paragraph b, Code  
34 2021, is amended to read as follows:

35     *b.* That no known wells are situated on the property, or, if

1 known wells are situated on the property, the statement must  
 2 state the approximate location of each known well ~~and its, the~~  
 3 well's status with respect to section 455B.190 or 460.302,  
 4 and whether the well has been inspected pursuant to section  
 5 455B.172, subsection 12, if such an inspection is required.

6 Sec. 3. Section 558A.4, subsection 1, Code 2021, is amended  
 7 by adding the following new paragraph:

8 NEW PARAGRAPH. c. The disclosure statement shall be  
 9 accompanied by a report of an inspection conducted pursuant  
 10 to section 455B.172, subsection 12, if such an inspection is  
 11 required.

#### 12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with  
 14 the explanation's substance by the members of the general assembly.

15 This bill requires an inspection of a private well that  
 16 serves a building in which a person resides, congregates, or  
 17 is employed upon the transfer of ownership of the building,  
 18 as outlined by the bill. The inspection shall examine the  
 19 level of nitrate, nitrite, arsenic, and coliform bacteria. If  
 20 the building is a home, the inspection shall also examine the  
 21 level of lead and copper. The bill also authorizes a county  
 22 board of health to require that an inspection in the county  
 23 include an examination of the level of other contaminants based  
 24 on local groundwater conditions upon the recommendation of  
 25 the state hygienic laboratory, the Iowa geological survey, or  
 26 the department of natural resources. Only a person certified  
 27 by the department may conduct an inspection. The department  
 28 shall consult with the state board of health to adopt rules  
 29 establishing certification requirements and uniform statewide  
 30 inspection criteria.

31 The bill allows county personnel to become certified  
 32 inspectors. The bill authorizes a county to set an inspection  
 33 fee for inspections conducted by county personnel. The bill  
 34 authorizes counties to use grant moneys received pursuant to  
 35 the grants to counties water well program in order to alleviate

1 administrative costs associated with private well inspection.  
2 A county that uses grant moneys for such purposes shall report  
3 inspection results to the state board of health.

4     Following an inspection, the inspection form and any  
5 attachments shall be provided to the county board of health and  
6 the department. An inspection is valid for all transfers of  
7 ownership of a building within a 24-month period.

8     A report of the inspection results shall accompany the  
9 disclosure statement required upon the transfer of ownership of  
10 the building and a groundwater hazard statement accompanying  
11 a declaration of value submitted to a county recorder. The  
12 owner of the property is responsible for the accuracy of the  
13 information submitted on the groundwater hazard statement and  
14 the owner's agent shall not be liable for the accuracy of such  
15 information. A person who fails to include a private well  
16 inspection report with the disclosure statement or provides  
17 inaccurate information in the report may be liable for actual  
18 damages suffered by the transferee.